

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8730 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1-5 No

YOGESH SHIVABHAI PATEL

Versus

SUPERINTENDING ENGINEER

Appearance:

MR PB MAJMUDAR for Petitioner

MS. HARSHA DEVANI, AGP, for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 13/07/98

ORAL JUDGEMENT

Rule. Heard learned counsel for the parties. By way of this Special Civil Application the petitioner seeks a direction against the respondent to give him benefit of continuity of services for the period 21.6.1985 to 26.5.1996 and also to release the annual increments till date and to fix his salary in the revised pay scale from 1.1.1986.

The petitioner was initially appointed as Civil Supervisor in the office of the Executive Engineer (R&BO) Baroda, in December 1976. He had gone abroad and he remained absent on account of his ill-health. There was some controversy with respect to his resignation. Therefore, Special Civil Application was filed before this court which was registered as Special Civil Application No. 312 of 1991. That Special Civil Application came to be allowed by the judgement of this court on 24.1.1996. This court ordered as follows:-

"In the result, this petition shall have to be allowed. The impugned order of accepting the petitioner's resignation is hereby quashed and set aside. The petitioner shall be reinstated in service without backwages, but with continuity of service within a period of eight weeks from the date of receipt of writ of this direction. Rule made absolute accordingly with no order as to costs."

Thus, by the order of this court the respondent was directed to reinstate the petitioner in service. The court also made it clear that there shall be continuity of service. The respondent was also directed to carry out the directions within a period of eight weeks. The grievance of the petitioner is that in spite of directions of this court the respondent has refused to give the seniority and also the increments earned by the petitioner. In my view there is substance in the grievance of the petitioner. Once this court has directed that there shall be continuity of service, the petitioner shall be entitled to seniority as well as the increments earned during that period.

In view of the aforesaid, this Special Civil Application is allowed and the respondent is directed to give benefit of continuity of service to the petitioner for the period 21.6.1985 to 26.5.1996 by giving seniority and also release the increments earned by him during these periods. He shall also be entitled to the refixed pay in the revised pay scale. If this time the orders of this court are not taken in the right perspective and not complied with, the court will take a serious view of the matter. Rule is made absolute to the aforesaid extent.

00000